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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FORD, NATHAN K

ART UNIT

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1792

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,677	Applicant(s) BECKMANN, RUDOLF	
	Examiner NATHAN K. FORD	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-55 is/are pending in the application.
- 4a) Of the above claim(s) 44-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-43, 54 and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/5/09</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's Response

Acknowledged is the applicant's request for reconsideration received October 9, 2009. Claims 44-53 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 5/28/08.

The applicant contends:

- (1) The instant invention produces plasma via a mechanism different from that relied upon by Ichiki.
- (2) A component essential to the performance Adler's extraction grid is the formation of an electrostatic gradient across its surface. It is not clear that Ichiki's grid provides such a gradient, a condition which ultimately undermines the apparatus's capacity to effect a divergent beam.

In response, these arguments have been considered but are not persuasive for reasons elaborated below:

(1) The examiner acknowledges these distinctions but nevertheless maintains that such concerns are not commensurate with the scope of the claims. The prior art must merely satisfy the limitations that are claimed, and the references cited by the examiner fully teach or render obvious those features recited in the current claim set.

(2) It is the shape of the grid, not its electrostatic charging, which principally influences the direction of the material passing therethrough. The purpose of Adler's gradient is to attract deposition material to the grid, but Ichiki already provides means to achieve this result. Hence, the presence or absence of a gradient on Adler's grid is superfluous to the limited scope of the combination. It is only Adler's teaching of non-planarity which is incorporated within the system of Ichiki.

Claim Interpretation

The language of claim 26 invokes USC 112, sixth paragraph.

The "electrical means for igniting and sustaining the plasma" will be interpreted as being inclusive of both electrical connections and a high-frequency transmitter according to paragraph twenty-four of the applicant's specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-27, 29-30, 39-42, and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichiki et al., US 2004/0244687, in view of Adler, US 4,587,430.

Claims 26-27, 29-30, 42, 54-55: Ichiki teaches the following:

- A high frequency plasma beam source (Fig. 1);
- A plasma chamber (1);
- Electrical means for igniting and sustaining the plasma comprising a high-frequency transmitter (20) and electrical connections (26);
- A metal extraction grid (4) disposed in the area of an outlet opening.

Ichiki's extraction grid is planar in shape; however, non-planar extraction grids are well-known in the art. For example, Adler discloses an ion implantation device employing a grounded non-planar extraction grid (29) (3, 30-35). As would be apparent to one of ordinary skill, the curvature of a grid determines the pathway of the molecules extracted therethrough. In the instant case, Adler's concave grid effects a divergent dispersion path of extracted molecules which mirrors the grid's curvature (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to configure an extraction grid concavely to ensure widespread deposition across the entirety of the substrate. Lastly, it has been held that the configuration of the claimed element is a matter of choice which a person of ordinary skill would have found obvious (*In re Dailey*, 149 USPQ 47).

Claim 39: Figure 5 of Ichiki delineates multiple gas sources. At least one of these sources can be used to provide a gas having a composition and temperature that would beget evaporation, as a recitation concerning the manner in which a claimed apparatus is to be employed does not differentiate the apparatus from prior art satisfying the claimed structural limitations (*Ex parte Masham*, 2 USPQ2d 1647).

Claim 40: Ichiki is silent regarding the composition and width of the extraction grid. Adler discloses an ion implantation device comprising a non-planar extraction grid (26) consisting of tungsten and having a width of 1 mm; tungsten is capable of withstanding significant heat loading due to ion bombardment, and a small mesh width minimizes ion losses to the extraction grid (4, 66ff). For these reasons, it would have been obvious to one of ordinary skill in the art at the time the invention was made to compose Ichiki's extraction grid with tungsten and to configure its width to be 1 mm.

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Claim 41: Ichiki discloses a coil (10) circumscribing the plasma chamber capable of effecting a magnetic field. Thus, the coil may be designated as a magnet and is capable of locking a plasma within its chamber accordingly; a recitation concerning the manner in which a claimed apparatus is to be employed does not differentiate the apparatus from prior art satisfying the claimed structural limitations.

Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichiki in view of Adler and in further view of Oechsner, US 5,156,703.

Claim 33: Ichiki and Adler are silent regarding the dimension of the extraction grid. In supplementation, Oechsner teaches a plasma beam source comprising a chamber for plasma (7), an extraction grid (1), and electrical means (3, 5) to ignite the plasma. The extraction grid is a mesh structure whose width and dimension are configured as changeable to achieve the desired plasma distribution; however, it is prescribed that the mesh openings be smaller than the space charge layer to facilitate particle permeability (9, 12-22). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the apertures of Ichiki's extraction grid to have a smaller width than the space charge zone. Lastly, as both Adler and Oechsner attest, it would also be obvious to one of ordinary skill to fashion Ichiki's grid as a mesh, given that it is well-known in the art to extract plasma particles through a mesh grid.

Claims 34-35: It should be noted that Oeschner demonstrates the dependence of the width of the space charge zone upon manipulatable factors such as current and voltage (6, 1-10). Thus, the exact value of the space charge zone is drawn to how the operator intends to use the apparatus, and it is the examiner's position that only a nominal modification of the inputs would be required to achieve an equivalency between the thickness of the space charge zone and the width of the mesh openings. Further, in determining the proper relationship between mesh width and space charge zone thickness, it would have been obvious to one of ordinary skill to seek a range of values of the space charge zone through routine experimentation, as it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art (*In re Boesch*, 617 F.2d 272, 205 USPQ 215).

Claims 28, 37-38, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichiki in view of Adler and in further view of Betz et al., US 5,656,141.

Ichiki's substrate support is substantially planar. Betz, however, distributes a plasma beam across multiple substrates arranged on a domed surface (30) to facilitate a consistent and equal coating process (Fig. 1). It would have

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been obvious to one of ordinary skill in the art at the time the invention was made to arrange the substrate support surface of Ichiki as a domed surface to achieve the predictable result of improving the regularity of the plasma distribution.

Claims 31-32 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichiki in view of Adler and in further view of Kumagai et al., JP 2001-210245, wherein machine translation is relied upon.

Ichiki does not configure the plasma apparatus with masks. Kumagai, however, discloses an ion source comprising an extraction grid (8) which delimits the boundary of the plasma chamber; below this boundary is a mask (7) disposed within the exit opening of the plasma chamber [0014]. The mask is provided with an electrical potential to control the plasma distribution [0039]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an electrically connected mask within the opening of Ichiki's plasma chamber to enhance control over the plasma distribution.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan K. Ford whose telephone number is 571-270-1880. The examiner can normally be reached on M-F, 8:30-5:00 EDT. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland, can be reached at 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/N. K. F./

Examiner, Art Unit 1792

/Michael Cleveland/

Supervisory Patent Examiner, Art Unit 1792